

Answer by the Government of the Federal Republic of Germany to the Questionnaire from the Special Rapporteur on freedom of religion or belief to States on antisemitism

The Federal Government is deeply committed to combating antisemitism in all its forms. One of the Federal Governments' measures recently taken in that regard, has been the creation of the office of the Federal Government Commissioner for Jewish Life in Germany and the Fight against Antisemitism in May 2018. The office is based at the Federal Ministry of the Interior, Building and Community. The Commissioner's central tasks are to ensure that measures and activities aimed at fighting antisemitism are better coordinated both at federal and state level, and to provide support to a wide range of civil society actors. The majority of federal states have also appointed their own commissioners, whose role among other things is to reinforce the fight against antisemitism.

As far back as 20 September 2017, the Federal Cabinet took note of an expanded version of the working definition of antisemitism adopted by the International Holocaust Remembrance Alliance (IHRA). This meant the endorsement of the working definition of antisemitism, highlighting the Federal Government's commitment to fighting antisemitism at national and international level. The Federal Government recommends taking the expanded working definition into account in full.

Although the recommendation is not legally binding, the political message conveyed by the recommendation can prompt all users to consider the definition as a shared standard, so that this definition can indirectly influence action.

1. Judaism Within the State: The Right to Freedom of Religion or Belief

Question 1a:

Is Judaism recognized as a religion in law? If so, what is the definition of Judaism in law? What is its status compared with other religions?

The freedom of religion or belief is enshrined in Article 4 of the German Basic Law (constitution). There is no legal definition of religion, because the freedom of religion guarantees comprehensive individual and collective rights. There is no doubt that Judaism falls under Article 4 and therefore Jews enjoy the same individual and collective rights as adherents of other religions under Article 4. Jewish religious communities and their wider groupings can – like all religious communities that meet the applicable requirements – be granted the status of a corporation under public law pursuant to Article 140 of the German Basic Law [*Grundgesetz* – GG] in conjunction with Article 137 (5) of the Weimar Constitution. Competence for this lies with the federal states [*Bundesländer*]. An overview of religious communities with this status (including Jewish faith communities) is available online at: <https://www.personenstandsrecht.de/Webs/PERS/DE/informationen/religionsgemeinschaften/religionsgemeinschaften-node.html> (German language only).

Question 1b:

Is there a Jewish population in your state? If so, what size is that population? Are there Jewish communities in many parts of the country or is it concentrated in a few areas (if so, in how many)?

There is an estimated Jewish population of 225.000 people currently living in Germany. About 100.000 Jews are organized in communities of different religious alignment. As to those Jews in Germany who are not members of a specific community, it is to be said that they are not included in the statistics. This means that the figures are not entirely reliable. There are Jewish communities of different sizes throughout Germany. With 9,316 members, Munich currently has the largest Jewish community in Germany, followed by Berlin (9,255 members) and Frankfurt (6,428 members).

Question 1c:

How does the State protect the right to freedom of religion or belief of the Jewish community? Can people freely change their religion into Judaism or leave the religion?

Article 4 (1) and (2) GG guarantee the freedom of faith, conscience and religious/philosophical creed to everyone. This fundamental right is thus afforded to all natural persons (“individual freedom of faith”) as well as to any legal persons and associations to the extent that they carry out protected activities (“collective freedom of faith”). Article 4 (1) and (2) GG protect – as a single fundamental right – the inward freedom to form and have religious and philosophical beliefs as well as the outward freedom to profess and disseminate those beliefs, including the individual’s right to base their entire conduct on the teachings of their faith and to act in accordance with those convictions. Article 4 GG makes no provision for limitations by subsequent legislation. Restrictions of the named rights are thus only permitted for the purpose of protecting the fundamental rights of third parties or protecting other legal values of constitutional rank.

Question 1d:

Are Jewish groups represented in public affairs? If so, are there official groups that work with the state? Are there official leaders of the community recognized by the state? Are the groups and leaders appointed by the Jewish community or by the state?

Jewish groups are of course a part of German civil society. The Central Council of Jews in Germany is the largest representation of Jews in Germany. It was founded in 1950 in Frankfurt (Main). It has the status of a corporation under public law and sees itself as open to all currents within Judaism. The Central Council currently has more than 100 member communities with a total of 96,000 individual members. As well as representing Jewish interests to the Federal Government, the tasks of the Central Council include building up a Jewish community in Germany, integrating Jewish immigrants, and preserving and maintaining German–Jewish cultural heritage. The Central Council also plays an active part in political life and society in the Federal Republic of Germany. One priority is promoting mutual understanding and respect between Jews and non-Jews. The Federal Government provides funding in different forms to strengthen Jewish life in Germany. Since 2003, the Federal Ministry of the Interior, Building and Community has funded the Central Council based on a state treaty. In this way, the Federal Government is providing significant support for preserving and maintaining German–Jewish cultural heritage and for continuing to build up the Jewish community in Germany. Similarly, the German government also supports the Central Council’s activities in the fields of integration and social welfare. Because the Central Council declared in the state treaty that it is open to all currents within Judaism, it is expected to use the government funding for the benefit of all Jews in Germany. Since 2018, the

amount of support set out in the treaty has been 13 million euros per year. The Federal Government also supports other Jewish institutions, organizations, projects and plans.

The Central Council is headed by one president and two vice-presidents. The current president is Dr Josef Schuster and the two vice-presidents are Abraham Lehrer and Mark Dainow.

All religious groups in Germany are independently run and appoint their heads themselves. For reasons of neutrality in questions of religion and the right to self-determination of religious communities, the state has no influence on these processes.

Question 1e:

Do any synagogues exist in your country? If so, are the buildings in use or historical or both?

In Germany there are synagogues that are used by their congregation for worship and synagogues that are used as historical buildings or museums. Further synagogues are being rebuilt, with state funding. There are also monuments to mark synagogues that were destroyed under the Nazi regime.

Question 1f:

Are there Jewish cemeteries? Is there law on their protection?

In Germany there are Jewish cemeteries that are still used as burial grounds by the local Jewish communities, and cemeteries that are no longer in use.

In view of the crimes committed against the Jewish community by the Nazi regime, in 1956 an agreement was signed between the federal and state governments to ensure the guarding and maintaining of the cemeteries of the former Jewish communities in Germany. Representatives of the federal and state governments reached an agreement with representatives of the Jewish population and the German associations of the Jewish communities on how this agreement should be put into practice. The federal and state governments each bear half of the cost of the long-term upkeep of the Jewish cemeteries of former Jewish communities that no longer exist.

Question 1g:

Are there any places of Jewish education (schools or universities) in your country? If so, are they accredited or recognized by the state? Does the state provide funding for them?

The competency for education and formation in Germany lies within the Länder. The Federal Ministry of the Interior does not have a list of schools or training establishments run by Jewish organizations. There are Jewish schools for instance in Berlin for primary and secondary education. However, the Ministry provides funding to the Hochschule für jüdische Studien Heidelberg (HfJS) and to the Abraham-Geiger-Kolleg (AGK), a seminary affiliated with the University of Potsdam providing liberal-progressive rabbinical and cantorial training, through project-based and/or institutional funding. The courses of study at the HfJS and the AGK are recognized by the German Council of Science and Humanities and therefore meet accepted standards. The German Council of Science and Humanities reaccredited the HfJS in January 2019, confirming that the HfJS meets the academic standards of a higher education institution and that its performance in the areas of research and training of junior

scholars is adequate for the school to award doctoral degrees, which it does in cooperation with another higher education institution. The HfJS also receives funding from the Standing Conference of Ministers of Education and Cultural Affairs of the Länder in the Federal Republic of Germany (KMK) and from Baden-Württemberg, the state in which it is based. The AGK also receives funding from the KMK and the state of Brandenburg.

There are also establishments for training (orthodox) rabbis (financed by the funding provided by the Federal Ministry of the Interior to the Central Council of Jews in Germany, as set out in the treaty). A Jewish campus is currently under construction in Berlin, with a crèche, a kindergarten, a primary school and a secondary school. As far as we are aware, the facility receives federal funding from the budget of the Federal Government Commissioner for Culture and the Media. A Jewish academy is under construction in Frankfurt. The 2019 budget of the Federal Ministry of the Interior earmarked seven million euros for this building project, which is to be carried out by the Central Council of Jews in Germany. We are currently unaware of any other education centres or plans for these in the German federal states.

Question 1h:

Are there any legal restrictions on ritual circumcision of males? If so, what are the restrictions?

According to section 1631d of the German Civil Code [*Bürgerliches Gesetzbuch* – BGB], parents exercising their rights of parental custody are entitled to consent to the circumcision of a son who is not yet capable of reasoning and forming a judgement for himself, provided that the procedure is to be undertaken according to the rules of medical practice. The rules of medical practice include suitable techniques for pain management and require that the parents are made fully aware of the issues in advance of the procedure. If, in exceptional circumstances, there is a risk to the best interests of the child, parental consent is ruled out. In the first sixth months after the son is born, the circumcision may also be carried out by persons designated by a religious community. Such persons are, however, only authorised to do so if they have been specially trained for the task and are qualified to perform circumcisions to a level comparable with a physician.

The background and reason for introducing section 1631d BGB was Cologne Regional Court's judgment of 7 May 2012 (file no. 151 Ns 169/11, NJW 2012, 2128 et seqq.) in which the judges held that the consent given by the child's custodians for a circumcision that was not medically indicated was legally ineffectual because the circumcision did not serve the child's best interests. This led to considerable legal uncertainty. In a decision of 19 July 2012 (Bundestag printed matter 17/10331), the German Bundestag emphasised that Jewish and Muslim religious life had to remain viable in Germany. It called on the government to "present a draft bill which ensures that a medically correct circumcision of boys without unnecessary pain is generally legal while taking account of the constitutionally guaranteed legal values of protecting the best interests of the child, physical integrity, freedom of religion, and the right of parents to educate their children".

With the introduction of section 1631b, legal certainty was achieved. Generally speaking, any form of circumcision could potentially be deemed to fulfil the objective statutory definition of intentionally causing bodily harm pursuant to section 223 of the German Criminal Code

[*Strafgesetzbuch* – StGB], or even the definition of causing bodily harm by dangerous means pursuant to section 224 (1) StGB. If the person undergoing the circumcision is able to consent himself and do so, even a procedure deemed to constitute bodily harm would not cause any legal issues. In the case of circumcision of male children, who are unable to provide this consent themselves, section 1631d BGB was introduced to ensure that, as long as the preconditions named in section 1631d BGB are met, the circumcision could also not be considered a criminal offence.

Against this backdrop, the aim of the provision in section 1631d BGB was to create legal certainty for all those affected and to find a suitable way of balancing the interests of everyone involved.

Question 1i:

Are there any restrictions on religious slaughter of animals? If so, what are the restrictions? If not, are there any slaughterhouses in your country that are licensed to allow animals to be killed in line with Jewish law?

Religious slaughter is generally not allowed in Germany, as the Animal Protection Act forbids the slaughter of warm-blooded animals without prior anesthesia (General prohibition subject to permission, Section 4 of the Animal Protection Act). Importing meat from other countries from animals that have been slaughtered in line with religious practices is legal. Failure to comply with this law without exceptional permission is an offence liable to prosecution, or at least a regulatory offence, which can lead to a ban on professional activities or a ban on handling animals (Section 17 of the Animal Protection Act). Livestock from German farms is therefore regularly taken abroad for slaughter. The animals are slaughtered there in line with religious practices and the meat is imported back into Germany.

Exceptional permission can be granted on religious grounds. In accordance with the decision by the Federal Constitutional Court (Judgment on ritual slaughter from 2002), according to the fundamental right of the freedom of religion that is guaranteed in Article 4 of the Basic Law, exceptional permission must be granted to the extent that the meat of the slaughtered animal is to be eaten by members of specific religious groups to whom mandatory provisions of their religious group prohibit the consumption of the meat of animals that were not ritually slaughtered. Following the enshrining of animal protection as a constitutional goal in Article 20a of the Basic Law, the Federal Administrative Court's judgment of 23 November 2006 did not rule out the possibility of a butcher being granted exceptional permission to slaughter cattle and sheep without anesthesia (religious slaughter) in order to provide his customers with meat in line with their religious beliefs. A compromise is to be found between the protection of animals set out as a constitutional goal and the fundamental rights affected, so that both can be respected. However, religious slaughter must be carried out by a skilled person in an authorized, registered slaughterhouse, and must be monitored by the local veterinary office.

Question 1j:

Are there any restrictions on importing kosher meat or other food? Is kosher food produced within the state?

See the answer given to to Question 1i.

Question 1l:

Are there any restrictions on Jews being able to create religious charities or humanitarian institutions? If so, what are the restrictions? If not, do such charities or institutions exist?

The Jewish community in Germany is free to create charitable associations.

The Central Welfare Board of Jews in Germany e.V. (ZWST) is the charitable association of Jews in Germany. It acts as an umbrella organization, representing and supporting 17 regional units and 6 independent Jewish communities in their social and youth work. The Jewish Women's Association is also a member of the ZWST. The ZWST has branches in Berlin, Saxony, Mecklenburg-Western Pomerania, a multiregional advisory centre in Potsdam and the "Kibuz" integration centre in Potsdam, which was founded in 2003. The ZWST's facilities also include the Jewish spa hotel in Bad Kissingen and the leisure and training centre in Bad Sobernheim. The Competence Centre for Prevention and Empowerment is responsible for developing and implementing effective action plans for tackling antisemitism and discrimination.

The board of the ZWST is appointed every four years by the organization's members' assembly, as set out in the articles of association, and it meets several times a year at regular intervals. The board is responsible for authorizing the budget and approving the annual financial report, among other things. It sets the focal points of the ZWST's social work. The headquarters are in Frankfurt (Main).

Current board: Abraham Lehrer (president, also vice-president of the Central Council of Jews in Germany), Sarah Singer (vice-president), Michael Licht (vice-president).

The ZWST is one of the six national federations of charitable organizations in Germany. The ZWST celebrated its hundredth anniversary in 2017. There are other Jewish charitable organizations, but we have no specific information on them.

Question 1m:

Are there any restrictions on Jewish materials being published or sold in the state? If so, what are the restrictions? If not, are there Jewish texts available and accessible in public libraries or institutions such as schools and universities?

There are no publication or sale restrictions on Jewish materials in Germany. Jewish texts are available and accessible inter alia in the libraries of schools and higher education institutions.

Question 1n:

Are Jewish marriages recognized in State law?

In Germany, marriages can only be concluded if the parties contracting the marriage declare before the registrar that they wish to enter into the marriage (section 1310 BGB). Only marriages of this kind give rise to legal consequences for the spouses (family law, law of succession, tax law, immigration law, social law). Marriages concluded on a purely religious basis are not deemed to be valid. In such cases, the recognised rules on living together out of wedlock apply to the couple.

As an exception pursuant to Article 13 (3) sentence 2 of the Introductory Act of the Civil Code [*Einführungsgesetz zum Bürgerlichen Gesetzbuche – EGBGB*], a marriage between two persons, neither of whom is a German national, can also be performed in Germany by a person properly authorised by the government of the country of which one of the persons is a national, in accordance with the formalities prescribed by the law of that country. Clerics authorised under a foreign country's law to conduct religious weddings and thereby to perform marriages within the meaning of that country's matrimonial law can only perform legally effective marriages in Germany if the foreign country has "nominated" them in this capacity to German authorities.

Marriages concluded in foreign countries are regarded as valid in Germany if they meet the legal requirements applicable to marriage from the German viewpoint (Article 11 and Article 13 EGBGB, Article 4 EGBGB) and if the application of foreign law in the specific case is not incompatible with public policy (Article 6 EGBGB). Further limitations arise from Article 13 (3) EGBGB; the Federal Constitutional Court has yet to decide whether Article 13 (3) no. 1 EGBGB is consistent with the constitutional principles of the Basic Law.

Where the provisions of the EGBGB make reference to foreign law, they mean foreign state law. Another country's applicable religious law can thus only be recognised if the country in question has declared its religious law to be state law – as is the case with Israel for example.

Question 1p:

Are there any restrictions on freedom of movement of members of the Jewish community, including in travelling abroad or in returning after travel to any country?

No. In accordance with Article 11 II of the Basic Law, right to freedom of movement applies to all and may be restricted only by or pursuant to a law. Limiting freedom of movement based on membership of a specific sector of the population, for example due to membership of a Jewish community, would violate the Basic Law.

Question 1q:

Are there any restrictions on the right to maintain free and peaceful contact with members of the Jewish community in other countries?

There are no such restrictions.

Question 1r:

Is there anti-discrimination law in general? How does the law deal with discrimination based on religion or belief?

The right to equality set down in Article 3 (1) of the Basic Law means that whatever is essentially the same must be treated the same and whatever is essentially different must be treated differently. Depending on the subject matter and the distinguishing grounds in question, varying requirements are applicable which can range from a mere prohibition of arbitrariness to a strict review of proportionality. The first sentence of Article 3 (3) of the Basic

Law furthermore contains special equality rights which are aimed at preventing discrimination against minorities and which are closely related to the principle of human dignity. This provision contains a general prohibition of discrimination on the listed grounds. The main reasons for including the grounds of “parentage”, “race”, “faith” and “religious or political opinions” were the antisemitism and racism experienced during the Nazi era.

At the level of non-constitutional law, the General Equal Treatment Act [*Allgemeine Gleichbehandlungsgesetz – AGG*] provides a centralised compendium of the anti-discrimination provisions in German law. Both direct and indirect forms of discrimination on the grounds named in the General Equal Treatment Act are prohibited. The grounds listed in the General Equal Treatment Act include a person’s religion or beliefs.

2. Antisemitism in Law and Policy

Question 2a:

Is there a State definition of antisemitism? What is it?

On 20 September 2017, the Federal Government took note of an expanded version of the working definition of antisemitism adopted by the International Holocaust Remembrance Alliance (IHRA). This definition is not legally binding, but its political endorsement by the Federal Government underlines the Federal Government’s strong commitment to combating all forms of antisemitism.

The Federal Government recommends taking the expanded working definition into account in particular in school and adult education and in further training in the judicial and executive branches, unless existing definitions which encompass the working definition are already applied in these areas.

Question 2b:

Does the State gather statistics on the number and nature of antisemitic hate crimes, penalties imposed on perpetrators and on remedies awarded to victims? Can the State provide these statistics to the Special Rapporteur?

The Police Reporting Service for Politically Motivated Crime (KPMD PMK) was established in 2001. This reporting service records the statistics for antisemitic crimes. The political motivation of offenders is divided into five categories:

- Right-wing extremist
- Left-wing extremist
- Foreign ideology
- Religious ideology
- Other

Alongside the crime and the motivation of the offender, no data is recorded in the KPMD PMK on conviction and sentence or victim compensation.

The table below shows the figures for the last two years:

	2017	2018	Change
Right-wing extremist	1,412	1,603	+191

Foreign ideology	41	102	+61
Religious ideology	30	52	+22
Left-wing extremist	1	14	+13
Other	20	28	+8
Total:	1,504	1,799	+295

Question 2c:

Who are the main perpetrators of antisemitism?

89.1 per cent of antisemitic offences were categorized as right-wing extremist in the reporting year 2018 (2017: 93.9 per cent).

Question 2d:

Are there laws about discrimination against Jews? What are those laws? Who is bound by those laws? Who is protected by those laws?

Yes, in Germany there are laws about discrimination against Jews.

The right to equality set down in Article 3 (1) of the Basic Law means that whatever is essentially the same must be treated the same and whatever is essentially different must be treated differently. Depending on the subject matter and the distinguishing grounds in question, varying requirements are applicable which can range from a mere prohibition of arbitrariness to a strict review of proportionality. The first sentence of Article 3 (3) of the Basic Law furthermore contains special equality rights which are aimed at preventing discrimination against minorities and which are closely related to the principle of human dignity. This provision contains a general prohibition of discrimination on the listed grounds. The main reasons for including the grounds of “parentage”, “race”, “faith” and “religious or political opinions” were the antisemitism and racism experienced during the Nazi era.

The General Equal Treatment Act applies to discrimination on the grounds of race or ethnic origin, gender, religion or beliefs, disabilities, age or sexual identity. It does not contain any separate provisions that deal specifically with antisemitic discrimination.

Discrimination on any of these grounds is generally unlawful under the General Equal Treatment Act. Pursuant to section 2 (1) AGG, the rules prohibiting discrimination in the General Equal Treatment Act apply to all forms of access to and structuring of employment relationships, education and social welfare. Pursuant to section 2 (1) no. 8 and section 19 (1) AGG, discrimination is furthermore also prohibited in the context of “bulk business” civil-law obligations which typically arise in a large number of cases under comparable conditions without regard to the individual.

However, where discrimination on grounds of race or ethnic origin is involved, it is irrelevant whether the context involves bulk business. Any discrimination on grounds of race or ethnic origin is generally unlawful when founding, executing or terminating civil-law obligations.

Whether cases of discrimination against persons of the Jewish faith are deemed to be on grounds of ethnic origin or religion depends on the particular circumstances of the case in question.

Incitement to hatred is punishable under section 130 StGB. It covers actions of hatred against national, racial or religious groups or groups defined by their ethnic origin, and against sections of the population or individuals on account of their belonging to one of the aforementioned groups or sections of the population. German criminal law applies to acts committed on German territory. In specific cases it also covers acts committed abroad.

Question 2e:

How is the prohibition of incitement to national, racial or religious hatred as reflected in international human rights law incorporated in national legislation? Does the State take other measures to prevent antisemitic hate speech?

As mentioned under question d), the prohibition of incitement to national, racial or religious hatred is incorporated in the German Criminal Code [*Strafgesetzbuch* – StGB]. Whoever, in a manner which is suitable for causing a disturbance of the public peace, incites hatred against a national, racial, religious group or a group defined by their ethnic origin, against sections of the population or individuals on account of their belonging to one of the aforementioned groups or sections of the population, or calls for violent or arbitrary measures against them, incurs a penalty of imprisonment for a term of between three months and five years (section 130 (1) no. 1 StGB). Furthermore, whoever disseminates material which (among other things) incites hatred against a national, racial or religious group incurs a penalty of imprisonment for a term not exceeding three years or a fine (section 130 (2) no. 1 letter a StGB).

See also the answer given to question 2 z).

Question 2f:

Are there specific offences in law regarding antisemitic crimes? Do the laws provide for the imposition of enhanced penalties for crimes committed with antisemitic motivation?

There are no separate offences in law specifically for antisemitic crimes. However, antisemitic crimes are covered by a range of provisions in general criminal law, e.g. section 130 StGB.

Antisemitic motives in committing an offence can be considered as an aggravating factor, resulting in a higher penalty, because they feature among the circumstances to be weighed by the court in fixing the sentence in the individual case under section 46 (2) sentence 2 StGB. With the Act of 12 June 2015 to Implement the Recommendations of the Committee of Inquiry of the German Bundestag into the NSU Terrorist Group [*Gesetz zur Umsetzung von Empfehlungen des NSU-Untersuchungsausschusses*], “racist, xenophobic or other aims and motives evidencing contempt for humanity” were explicitly included in the catalogue of sentencing principles set out in section 46 (2) sentence 2 StGB. These include antisemitic motives, as emphasised in the official explanatory memorandum to the Act (draft bill of the Federal Government of 27 August 2014, page 15). While it was recognised prior to this new Act that “the offenders’ motives and objectives” mentioned in section 46 (2) sentence 2 StGB would cover racist, xenophobic and antisemitic motivations, i.e. that these motives were already to be considered as aggravating circumstances, the explicit reference made to these

circumstances with the new Act reiterates their significance in court sentencing in particularly strong terms.

Question 2h:

Are the police trained about antisemitism? What form does that training take? Are the judiciary provided with training about antisemitism?

Basic and advanced Federal Police training measures aimed at fighting antisemitism:

The Federal Police pursues a comprehensive approach in order to ensure the security of every individual. Basic and advanced training provide Federal Police officers with the necessary expert knowledge. This training helps to shape their ethical and moral value system. An intercultural focus is standard in the Federal Police.

The topic of antisemitism is not included as a separate subject area for training Federal Police officers. However, there are specific references made to antisemitism when imparting the training topics listed below.

The syllabus during preparatory training for the intermediate police service includes the following subject areas:

- Civic education, historical development and processes from the Enlightenment to the present, with a special focus on constitutional history
- Civic education, the free democratic basic order and autocratic organizations.

In the higher intermediate service of the Federal Police, the modular curriculum for career training includes, for example, the subjects:

- Political extremism, militant democracy.

In the higher service of the Federal Police, the curriculum deals with subjects such as:

- Police science and societal development, police history.

Career training to join the ranks of higher intermediate and higher police officers requires a diploma/master's dissertation to be submitted in which topics related to antisemitism are regularly dealt with. Some examples of diploma dissertations that have been submitted to date are:

"Die Entwicklung des "Neuen Antisemitismus", worin unterscheidet er sich vom traditionellen Antisemitismus?" (The development of a new "antisemitism" – what differentiates it from traditional antisemitism?) and *"Antisemitismus in aktuellen Strömungen des "Islamismus"* (Antisemitism in current streams of Islamism).

When training members of the Federal Police to assume their powers of intervention, the content and meaning of human and basic rights are considered in detail. These fundamental legal aspects and basic values are refreshed and expanded during a lifelong learning process in the form of regular police training.

A central element of police training is what is known as "situational training", in which police interventions are practiced. These training sessions also look at how to approach citizens from different cultural backgrounds.

The Federal Police Academy offers seminars on the topics of intercultural skills, extremism (right-wing/left-wing), politically motivated crime, and crime prevention by police forces, in which the problem of antisemitism is also dealt with.

Alongside its own training courses for employees, the Federal Police also uses seminars offered by external training providers and affiliated authorities (e.g. the Federal Criminal Police Office, state police forces, and the Information and Education Centre Castle Gimborn).

The Federal Police takes part in events and campaigns carried out by the Federal Government at memorial ceremonies (e.g. laying wreaths on anniversaries such as 20 July 1944). Federal Police cadets are regularly deployed for such events.

In addition to training courses, Federal Police facilities have literature/media on the topic of antisemitism which is available to all members of the Federal Police. The Federal Police intranet site also has a collection of links in its crime prevention section to information sites such as redok.de, mut-gegen-rechte-gewalt.de etc., where employees can find out more. Information brochures, including materials published by other authorities, are also available online (e.g. fact sheets and information on banned organizations and abbreviations, symbols, quotes and mottos used by right-wing extremists). This information is used in the basic and advanced training of Federal Police officers.

The Federal Police will continue to actively tackle the topic of antisemitism in its basic and advanced training.

Question 2i:

Are there laws about the publication of antisemitic materials? What are those laws?

As mentioned under e), pursuant to section 130 (2) no. 1a) StGB, whoever disseminates material which incites hatred against a national, racial or religious group shall incur a penalty of imprisonment for a term not exceeding three years or a fine. Furthermore, under section 130 (2) no. 3 StGB, it is also a punishable offence to produce, purchase, supply, stock, offer, advertise or undertake to import or export material in order to use it or parts obtained from it within the meaning of number 1a), or to facilitate such use by another.

In addition, pursuant to section 86 (1) no. 4 StGB, a penalty of imprisonment for a term not exceeding three years or a fine shall be imposed on anybody who disseminates in Germany – or produces, stocks, imports or exports, or makes publicly available through data-storage media for dissemination in Germany or abroad – propaganda material, the content of which is intended to further the activities of a former National Socialist organization.

Question 2j:

Is it lawful to sell Nazi memorabilia or other antisemitic merchandise?

No. Using symbols of unconstitutional organisations is punishable under section 86a StGB. The term “use” also covers the sale of such items.

Question 2k:

Are Jews allowed to own property? Are they allowed to own businesses? Are there any public or private sector jobs that the Jews are legally excluded from?

The answer to the first two questions is yes. All natural persons may invoke the constitutionally enshrined freedom-of-property principle in Article 14 (1) of the Basic Law [*Grundgesetz* – GG]. In accordance with Article 19 (3) GG, this fundamental right also extends to all legal persons under private law.

Jews are not excluded from any public or private sector jobs.

Question 2l:

Are there any political parties that do not allow Jewish members? Are there Jewish people in government? Are there Jewish people in the judiciary?

We are not aware of exclusion from political parties due to religious affiliation. Such exclusion would be unconstitutional. Religious denomination is exclusively a private matter, which means that no statistics are available on the religion of members of the government or the judiciary.

Question 2m:

Are there specific educational measures to address antisemitism in educational environments and/or prevent antisemitism through education?

Antisemitism is an important topic in school education and addressed in the framework of lessons on history, political/civic education, education for democratic citizenship, human rights education, etc. Many Länder have appointed commissioners on antisemitism. Further initiatives are currently being planned to sensitise all schools, teachers and students accordingly. This includes the application of the IHRA-definition of antisemitism.

In fulfilling their responsibility to society, several higher education institutions organise e.g. information events such as lecture series about different topics concerning Jewish culture and history. Excursions to memorial sites of the Holocaust are also offered by universities to their students.

See also the answer given to question 2 z).

Question 2n:

Is there a Holocaust Memorial Day commemorating the genocide of the Jewish people at the hand of the Nazi Germany and its allies and collaborators recognized as part of the official state calendar? If so, in which ways is this day marked and commemorated? On which date/s does the commemoration take place and what is the official name of the day/s?

The Day of Remembrance for the Victims of National Socialism on 27 January has been a national day of remembrance enshrined in law in Germany since 1996. It commemorates 27 January 1945, the day of the liberation of the Auschwitz-Birkenau extermination camp and the two other concentration camps at Auschwitz by the Red Army in 1945.

27 January was declared a day of remembrance on 3 January 1996 by a proclamation of the Federal President at the time, Roman Herzog. On 27 January 1945, soldiers of the Red Army liberated the survivors of the Auschwitz-Birkenau concentration camp, the Nazi regime's largest extermination camp.

In Germany, flags are lowered at half-mast on public buildings to mark the day of remembrance. Numerous events take place throughout Germany on this day such as readings, theatre performances and religious services, to make sure that the crimes committed under the Nazi regime are not forgotten. The day of remembrance is also used to raise awareness of current tendencies towards antisemitism, xenophobia and hate.

An event is regularly held in the German Bundestag to mark the Day of Remembrance for the Victims of National Socialism.

Question 2n:

At which level do government officials participate in the Holocaust commemorative event/s? Are Jewish community groups and representatives of other groups persecuted by the Nazi and their collaborators involved in the event/s in terms of organization and participation?

The event is regularly attended by top-level political representatives in Germany, by representatives of Jewish institutions, Sinti and Roma and other groups persecuted during the Holocaust, and by Holocaust survivors.

Question 2p:

Are there any public memorials of Nazi crimes that specifically mentions the Jews? Are there any public museums that have exhibitions about Nazi crimes that specifically mention Jews?

Yes. Germany has numerous public places of remembrance and memorial sites specifically devoted to Jewish victims of the Holocaust. There are also numerous exhibitions in many museums which address the period of National Socialist rule and/or are specifically devoted to Jews.

The Federal Government acknowledges its ongoing responsibility to remember the victims of National Socialism and to study Nazi crimes. A central role here is played by institutional funding for memorial sites, documentation centres and museums of history, whose exhibitions, events, publications and educational outreach largely focus on the history of Jews in Germany, their suffering and the Holocaust, which claimed the lives of about 6 million Jews.

The institutions receiving funding from the Federal Government Commissioner for Culture and the Media (BKM) include the Memorial to the Murdered Jews of Europe (Holocaust Memorial) in Berlin, which is entirely federally funded; major concentration camp memorial sites such as Buchenwald, Mittelbau-Dora, Bergen-Belsen, Sachsenhausen, Ravensbrück, Dachau, Flossenbürg and Neuengamme, which are funded both by the Federal Government and the federal state in which they are located; the Topography of Terror Foundation; and the provider association for the House of the Wannsee Conference, the German Resistance Memorial Center Foundation, the Silent Heroes Memorial Center and the Museum Otto Weidt's Workshop for the Blind. Based on the Federal Government's policy paper on memorials, the BKM also provides annual funding for projects devoted to the study of National Socialism in Germany.

The Jewish Museum Berlin, which receives institutional funding from the BKM budget, addresses the Shoah very thoroughly in its permanent exhibition. The museum also organizes special exhibitions, events with Holocaust survivors, book presentations, panel discussions, education activities for children and young people and seminars for educators on this topic. The German Historical Museum in Berlin also addresses the Holocaust in its permanent exhibition and regularly in special exhibitions.

According to the division of rights and duties laid down in constitutional law, the federal states and municipalities have primary responsibility for the culture of remembrance. For this reason, there are many more memorial sites, places of remembrance, museums and comparable institutions in the federal states and municipalities devoted to the study of National Socialism and crimes against the Jews.

Question 2q:

Do public school curricula cover the rise of European fascism, the ideology of the Nazi Party, and the Holocaust and other crimes perpetrated by the Nazis?

There is consensus among the German Länder that National Socialism and the Holocaust should make up a very significant and essential part of the curriculum, with the subject being addressed both in the classroom and beyond. Rather than restricting teaching on the subject to just one field of study, the Holocaust is addressed from a variety of angles and approaches. For example, history curricula address National Socialism and the Holocaust in the ninth and tenth grades, as well as in the eleventh and twelfth grades of upper secondary school (*Gymnasium*). The topic is also addressed in the framework of political/social studies, religious studies and ethics, as well as through the study of German literature and memoirs addressing the period. Such approaches are not restricted to particular grade levels but are applied throughout school education. Schools are asked to use the Holocaust Memorial Day as a way to focus on projects related to the Holocaust, so as to devote special attention to the topic. In addition, students also participate in extracurricular activities such as visits to memorial sites (e.g. former concentration camps) and encounters with witnesses.

Question 2r:

Does that education include materials specifically focused on the history of Jews and Judaism? Does it mention Jewish life and cultures before and after the Holocaust?

In 2016 the Central Council of Jews in Germany and the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder (KMK) adopted a Joint Declaration on the Teaching of Jewish History, Religion and Culture in Schools. The joint declaration aims to present Judaism in schools in its diversity and authenticity, and to provide students with a lively and differentiated picture of Judaism. The manifold perspectives of historical and contemporary Judaism should be discussed in as many grades and subjects as possible. A special focus lies on subjects and projects of historical and political education. The analyses of current political developments, and past events and processes are essential in this regard. In April 2018, the Standing Conference and the Central Council of Jews in Germany presented a collection of teaching and learning materials for the teaching of Judaism in schools on a dedicated website (<https://www.kmk-zentralratderjuden.de/>).

Question 2s:

What is the status of academic research concerning the history of Jews and Judaism, antisemitism and the Holocaust? (research institutions, dedicated university chairs or departments, etc.)?

Research and research funding are the responsibility of the federal states and, at federal level, the Federal Ministry of Education and Research.

There are several university chairs for Jewish Studies (*Judaistik*, *Jüdische Studien*, etc.) in Germany (see also answer to question 1g). Historical events, e.g. the Holocaust, are often part of the chairs for modern German history, while antisemitism is examined and researched by the chairs for sociology or cultural studies. Beside these university chairs and faculties there are also dedicated research institutions that are often affiliated with universities, for example the *Fritz Bauer Institut zur Geschichte und Wirkung des Holocaust* (Fritz Bauer Institute on the History and Impact of the Holocaust, affiliated with the University of Frankfurt/Main) or the *Zentrum für Antisemitismusforschung* (Center for Research on Antisemitism, affiliated with the Technical University of Berlin). The *Institut für Zeitgeschichte* (Institute for Contemporary History) is a publicly funded research institute on contemporary German history with a focus on Germany in the time of National Socialism (including antisemitism and the Holocaust).

The memorial sites and places of remembrance funded by the Federal Government Commissioner for Culture and the Media do conduct a certain amount of research, for example for major, high-profile permanent exhibitions and individual special exhibitions in which Jews, their history and the Holocaust are a central focus, as described above.

According to the legislation establishing the Jewish Museum Berlin, that institution's tasks include in particular researching Jewish life in Berlin and Germany, its influence on the rest of Europe and overseas, and relations between Jewish and non-Jewish culture.

The Federal Government also funds institutions abroad who research Jewish life in Germany before and during the Holocaust. Examples are the Wiener Library in London and the Leo-Baeck-Institutes in New York, London and Jerusalem.

Question 2t:

Are there any laws that address Holocaust denial?

Yes, there are laws that address Holocaust denial. Under section 130 (3) StGB, whoever publicly or in a meeting approves of, denies or downplays an act committed under the rule of National Socialism of the kind indicated in section 6 (1) of the Code of Crimes against International Law [*Völkerstrafgesetzbuch* – VStGB] in a manner which is suitable for causing a disturbance of the public peace shall incur a penalty of imprisonment for a term not exceeding five years or a fine. Furthermore, under section 130 (4) StGB, whoever publicly or in a meeting disturbs the public peace in a manner which violates the dignity of the victims by approving of, glorifying or justifying National Socialist tyranny and arbitrary rule shall incur a penalty of imprisonment for a term not exceeding three years or a fine.

Question 2u:

Does the State have a parliamentary or legislative code of conduct to deter politicians from making antisemitic, xenophobic, racist, homophobic, or other hateful remarks from the floor or in public appearances? Is there qualified or parliamentary immunity for hate speech?

The general German statutory provisions apply (general criminal law; slander as a criminal offence) for Members of the German Bundestag as far as the utterances described in the question and other forms of hate speech **outside the Bundestag** are concerned.

Special provisions apply to statements **made within the Bundestag**. Pursuant to Article 46 (1) of the Basic Law, Members of the German Bundestag may at no time be subjected to court proceedings or disciplinary action for any utterance made in the Bundestag or in one of its committees or otherwise be called to account outside the Bundestag (**indemnity**). Slandorous defamations, i.e. deliberately untrue and contemptuous factual claims about a person, **are not covered by the protection of indemnity**. Such utterances would be subject to criminal prosecution.

Indemnity also does not preclude Members of the Bundestag from being called to account within the Bundestag. The **parliamentary measures for the maintenance of order** created by the German Bundestag within the framework of its autonomy under the rules of procedure (Article 40 (1) sentence 2 of the Basic Law) are applied here (e.g. direction to discontinue speaking, call to order, an administrative fine of 1000 euros, or 2000 euros in case of recurrence, as well as exclusion from the current and possibly from further sessions). The grounds for the imposition of such measures is the breach of order or failure to respect the dignity of the Bundestag. This also includes the utterances and hate speech described in the question, which means that Members will have to face the aforementioned measures should they act in such a manner.

Question 2x:

What measures have been taken by the State to increase the reporting of antisemitic hate crimes? E.g. Has the State made efforts to ensure that the reporting mechanism is transparent and accessible?

There is a standardized system in Germany for recording antisemitic crimes. See answer to question 2b.

Question 2y:

Does national law allow private members clubs to exclude Jews? Are hotels allowed to exclude Jews? If so, under what laws?

The General Equal Treatment Act [*Allgemeine Gleichbehandlungsgesetz – AGG*] would apply to these cases as well. Excluding Jews from private members' clubs or hotels can be considered discriminatory on three grounds: race, ethnic origin or religion. Which of these exact grounds applies, would be determined in the individual case.

If the above-mentioned cases involved the grounds of race or ethnic origin, any adverse discrimination would be unlawful when founding, executing or terminating civil-law obligations (section 19 (2) AGG).

If the discrimination occurred on religious grounds, the prohibition of discrimination would generally apply only to such contracts where the contracting parties do not typically have a special interest in the specific person of their contractual partners (this is called the "bulk business" requirement and is set out in section 19 (1) AGG). Hypothetically, such interest in the specific person would be more likely in the case of a private members' club than in the

case of a hotel stay. However, it is not possible to provide a generalised assessment. Rather, a decision would have to be taken in the individual case as to whether such transaction is regularly concluded without regard to the person concerned.

Question 2z:

Does the state have any initiatives in place to counter negative religious stereotyping of Jewish persons?

Questions 2.e), 2.m), 2.z) and 4.f), 4.g) (same question as 2.z.!) and 4.m) will be answered together:

Many organisations, initiatives and associations throughout Germany which actively work towards a diverse, non-violent and democratic society are being supported by the federal programme “Live Democracy!”, launched by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth.

The federal programme’s target groups include, in particular, children and young people, their parents, relatives and reference persons as well as volunteers, child-care workers, multipliers and governmental and civil society actors. The programme is also a cornerstone of the Federal Government’s strategy to prevent extremism and to promote democracy.

One main focus of “Live Democracy!” is the prevention of antisemitism. Three major non-governmental organisations which work in different fields of the prevention of antisemitism receive funding for professionalising their work as well as for developing a nation-wide infrastructure. Those organisations are (1) the Anne Frank Zentrum (AFZ) in the field of historical and political education, (2) the Zentralwohlfahrtsstelle der Juden in Deutschland (ZWST) in the field of empowerment and (3) the Kreuzberger Initiative gegen Antisemitismus (KIgA) in the field of antisemitism in a migrant-society. Especially the KIgA is actively engaging in the promotion of interfaith tolerance. They regularly host events which focus on Jewish-Muslim dialogue and are a major partner for the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth.

Additionally more than 20 pilot projects are funded which develop new approaches and test innovative methods in their work with children, young people and adults and address antisemitism on various levels and within different target groups. Antisemitic hate speech, negative stereotyping of Jews as well as all other forms of antisemitism are addressed in these pilot projects. The aim is to develop learning materials for different learning environments and for different target groups as well as other sustainable knowledge bases which can be used prospectively in all kinds of (educational) settings and trainings.

3. Antisemitic Incidents

Question 3a:

Have any political parties been accused of antisemitism in the past five years? If so, how was this addressed?

Parties enjoy special rights under the German Constitution due to their important role in shaping public opinion. Hence, there are relatively high barriers to take actions against parties.

Within the last five years, accusations were made against the Nationaldemokratische Partei Deutschlands (National Democratic Party of Germany, NPD) of antisemitism in the request

by the Bundesrat to ban the party and in the judgment of the Federal Constitutional Court of 17 January 2017 (2 BvB 1/13). The Bundesrat, the Bundestag and the Federal Government resolved to submit a request to the Federal Constitutional Court to bar the NPD from receiving state party funding. The possibility to do this was created in the Act to Amend the Basic Law from 13 July 2017 (Federal Law Gazette I p. 2347) and the act allowing political parties hostile to the Constitution to be barred from receiving state funding from 18 July 2017 (Federal Law Gazette I p. 2730) in reaction to the NPD judgment handed down by the Federal Constitutional Court.

In addition a party considered right-wing extremist was also forbidden by the local public order authorities from displaying a campaign poster during the campaign for the 2019 European elections. The ban was confirmed by the administrative courts. The higher administrative court held that the statement on the poster was not directed just against Israeli policy, but against Jewish people in general.

Question 3c:

Are public broadcasters (radio and television) required to have a code or policy on antisemitism?

The Inter-State Agreement on Broadcasting, which regulates the programming and distribution of broadcasting in Germany, sets out the general principles that broadcasting programmes in Germany must respect human dignity and the moral, religious and philosophical convictions of others, and must strive for a society free of discrimination. Broadcasters' guidelines on advertising explicitly state that advertising cannot violate human dignity or contain or encourage discrimination on the basis of sex, race, ethnic origin, nationality, religion or beliefs. And public broadcasters regularly issue publicly accessible guidelines specifying the content of their broadcasting mandate. Because of their special significance for society, racism and antisemitism are regular subjects of programming. For example, in 2018 the public broadcaster ARD covered the subject in depth in its *Antisemitismus Report*.

Question 3d:

Have neo-Nazi or antisemitic groups carried out antisemitic filtering campaigns, flash demonstrations (unannounced, quickly disbanded gatherings) or rallies?

The Internet and new media play a key role in the rapid dissemination of information, whether true or not, and of hate-speech, including an increased use of offensive language, such as insults, slurs and incitement to crime.

Criminal offences that are reported are investigated. In Germany, the Act to Improve Enforcement of the Law in Social Networks (NetzDG) requires network operators to delete unlawful content (insults, public incitement to crime, incitement to hatred and violence, violations of public order) immediately and to publish regular reports ("transparency reports"). But this Act only applies to unlawful content; it does not cover hate speech.

Question 3e:

Is there a specific mechanism for reporting antisemitic incidents? If so what is the mechanism?

Yes. Offences recorded in police statistics do not represent all antisemitic incidents, which often do not cross the threshold that would make them criminal (for example gestures or verbal threats).

In view of this, a key task of the Federal Government Commissioner for Jewish Life in Germany and the Fight Against Antisemitism, in conjunction with the federal states, is to establish a nationwide reporting system to record antisemitic incidents, including those that do not constitute a crime. To this end, the civil society association RIAS (the office for research and information on antisemitism) was founded in late 2018. The association will be funded from the budget of the Commissioner for Jewish Life in 2019. The aim of this system is to ensure, among other things, that uniform categories are used in recording antisemitic incidents, one reason being so that the situation in the different federal states can be compared. Incidents can be reported to RIAS using an online reporting tool. As well as recording incidents, RIAS can report them to the police, improving the extent to which crime is reported. One example of this would be where the address of RIAS can be given in a criminal complaint instead of the victim's address.

The aim is to generate reliable data which will in turn enable better, or if necessary new approaches for further prevention measures. Another key aim is to help those affected, for example by referring them for appropriate counselling.

Due to the federal structure in Germany, the states are responsible for deciding on how registries are to be established and organized.

Question 3f:

Does the state record antisemitic incidents? If so where are they recorded? Are the statistics rising or falling? Do the statistics include the penalties imposed on perpetrators and remedies awarded to victims?

Every year, the Federal Government publishes statistics on politically motivated crime, which also include nationwide data on antisemitic offences. Criminal motives are divided into five categories: right-wing, left-wing, foreign ideologies, religious ideologies, and other. Antisemitism is defined as a subset of hate crime committed on the basis of anti-Jewish feeling.

The Land justice administrations have collected data on proceedings concerning xenophobic/right-wing extremist offences since 1992. The Federal Office of Justice (Bundesamt für Justiz – BfJ) aggregates these sets of data into an overall result for the whole of Germany. The results for the period from 2013 onwards are published on the BfJ website. Entered into the statistics are all investigation proceedings concerning offences which – upon reasonable assessment of the circumstances of the offence and/or the attitude taken by the perpetrator – show indications of being attributable to a “right-wing” orientation (e.g. based on the type of subject matter involved), without the offence necessarily being aimed at disrupting or destroying an aspect of the free democratic order (extremism in the narrow sense). This includes offences in which elements of racism, völkisch nationalism, social Darwinism or National Socialism were either the sole cause or a contributory factor in committing the offence. The statistics are broken down into different groups of offences. If antisemitic tendencies were also involved in the offence, this fact is indicated separately. The

statistics also include information on the type of outcome before the court (including sanctions) or at the public prosecution office.

In future, the phenomenon of hate crime will also be regularly and systematically recorded and shown in a new set of judicial statistics. For the purposes of these statistics, criminal offences are classified as hate crime if, upon assessing the circumstances of the offence and/or the attitude taken by the perpetrator, there are indications that they are directed against a person on the basis of that person's actual or ascribed/assumed nationality, ethnic origins, skin colour, religion, beliefs, physical or and/or psychological disability or impairment, sexual orientation and/or sexual identity, political position, political views and/or political involvement, external appearance, or status in society, and the offence is causally related to this or is committed in this context against an institution, object or premises. The category "antisemitic" is shown separately. Thus, the new statistics are not limited to criminal proceedings concerning anti-Semitic criminal offences based on xenophobic or right-wing extremist attitudes, but also include all criminal proceedings relating to hate crime (e.g. antisemitic criminal offences based on foreign ideology or with religious motives). The statistics will include the final decisions issued by the public prosecution offices and courts (discontinuances, adjudications and convictions – including sanctions). Initial publication of the data is scheduled for the 2019 reporting period.

Alongside criminal offences, incidents which do not break the law are also a concern. In view of this, the Federal Government is providing support for establishing a nationwide reporting system to keep track of antisemitic incidents, including those that do not constitute a crime. This is currently being set up throughout Germany in cooperation with the states. To this end, the association RIAS (the office for research and information on antisemitism) was founded in autumn 2018. In 2019 the association will be funded from the budget of the Commissioner for Jewish Life in Germany and the Fight Against Antisemitism, who will also be its patron.

Question 3g:

Does the government collect information concerning the motivation of the perpetrators of antisemitic acts? Can the State provide this information to the Special Rapporteur?

Please see the answers to questions 2 x) and 3 e).

Question 3i:

Can the State provide information on cases of antisemitic violence, harassment, or desecration targeting individuals or their property, educational facilities or Jewish cultural or religious sites?

Antisemitic incidents in schools are currently met with great public attention, and are widely reported and condemned. There is no comprehensive data available on such incidents in educational facilities.

Question 3j:

How does the State ensure that victims of antisemitic hate speech, crimes or discrimination are provided with effective remedies? Does the State fund programs designed to help hate crime victims?

Part 1

The Code of Criminal Procedure [*Strafprozessordnung* – StPO] foresees a range of opportunities for the victims of crime to assert their rights effectively in criminal proceedings. For example, victims of crime can report an offence or apply for criminal prosecution orally or in writing at any police office, prosecutor's office or local court [*Amtsgericht*]. The victims of certain offences listed in section 395 StPO can join the prosecution as an accessory prosecutor [*Nebenklage*]. This will also be the case where these offences are committed with anti-Semitic motives. The victim's right to join the prosecution as accessory prosecutor is not subject to any further conditions if a violent act has been committed, such as bodily harm under section 223 StGB. If the offence committed constitutes an act of insult under section 185 StGB or malicious gossip under section 186 StGB, for example, the victim of the offence may join the public prosecution as accessory prosecutor in accordance with the requirements of section 395 StPO if, for particular reasons, especially because of the serious consequences of the act, this appears to be necessary in order to safeguard his interests. The "particular reasons" requirement may include, for example, that the aggrieved party has to defend himself against considerable accusations (cf. Recommendation for Resolution and Report of the Committee on Legal Affairs (6th Committee) in Bundestag Printed Paper 16/13671 of 1 July 2009 on the draft bill of the CDU/CSU and SPD parliamentary party groups on the 2nd Victims' Rights Reform Act [*Opferrechtsreformgesetz*] in Bundestag Printed Paper 16/12098). This can occur particularly in cases of anti-Semitic defamation. Furthermore, under section 374 StPO, defamation offences and bodily harm can be prosecuted by way of a private prosecution [*Privatklage*] without the need for public charges to be pressed.

Under section 397 StPO, accessory prosecutors enjoy comprehensive procedural rights, e.g. the right to ask questions, apply for evidence to be taken, make statements or apply for recusal of a judge on grounds of bias. Private prosecutors enjoy equivalent rights as well, as set out in sections 385 et seqq. StPO. The appellate remedies available to private prosecutors are set out in section 390 StPO. The appellate remedies available to accessory prosecutors are governed by sections 395 and 400 StPO, i.e. they may file an appellate remedy to the extent that they are aggrieved by a decision in their position as accessory prosecutor, but may not appeal with the objective of a different legal consequence being imposed for the offence. Both accessory prosecutors and private prosecutors may be represented by legal counsel, and, in cases of financial need, may apply for legal aid. Furthermore, victims entitled to join the prosecution as an accessory prosecutor, in cases of specific offences listed in section 397a StPO, may apply for a free-of-charge victim's attorney irrespective of financial eligibility.

Part 2

The German federal budget includes funds to compensate victims and the bereaved of extremist violent crimes (hardship payments).

Hardship payments are financial assistance which can be paid out within a short period of time to victims of extremist offences. They are designed to ensure that the affected persons are afforded rapid assistance without the need to overcome bureaucratic hurdles.

Hardship payments are made as a voluntary, special expression of solidarity by the State. The Federal Office of Justice is responsible for approving hardship payments pursuant to the Guideline for Hardship Payments for Victims of Extremist Attacks [*Richtlinie zur Zahlung von Härteleistungen für Opfer extremistischer Übergriffe*], issued by the Federal Ministry of Justice and Consumer Protection. In its preamble, the Guideline refers to the State's duty to protect its citizens from all forms of extremism and makes explicit reference in this regard to antisemitism. Those who have been the victims of anti-Semitic attacks thus fall within the Guideline's scope and can receive hardship payments.

The General Equal Treatment Act [*Allgemeines Gleichbehandlungsgesetz – AGG*] foresees a number of legal consequences for violations of the civil-law prohibition of discrimination (see question 2y above). First, the affected persons can demand that an ongoing act of discrimination be eliminated. Furthermore, they have a claim to compensation for damage, dependent on fault, and a claim to receive reasonable monetary compensation for non-pecuniary damage, irrespective of fault.

Question 3k:

How does the state monitor education materials in schools and in religious institutions to prevent antisemitic language, teachings, and depictions? How does it monitor those materials to prevent Holocaust denial? What sanctions and remedial actions are available if those materials are discovered?

German school textbooks have to be officially approved before use. Textbooks that are incompatible with the free democratic order of Germany and do not correspond to the Länder curricula are not approved and are thus not included in the lists of textbooks schools can choose from. The German textbook publishers comply with these requirements. Additionally, the *Georg-Eckert-Institut für internationale Schulbuchforschung* (Georg Eckert Institute for International Textbook Research) also examines textbooks with regard to discriminatory and antisemitic content. Concerning other learning materials used in class, there is a high degree of sensitivity with regard to discriminating content, ensuring that such content does not reach the students.

Question 3l:

Does the state monitor public libraries and state-sponsored literary and cultural events for publications or other content that is antisemitic or that denies the Holocaust?

As a rule, the constitutional right to freely express and disseminate one's opinion in speech, writing and pictures has its limits in the provisions of general laws, in the provisions for the protection of young persons, and in the right to personal honour. The German Criminal Code (§ 130 StGB) penalises incitement to hatred against segments of the population and the denial of the Holocaust. Concerning young people, media containing antisemitic and other content defined in § 130 StGB are considered to be severely harmful to minors and may not be made available or accessible to children and adolescents in accordance with § 15 of the German Protection of Young Persons Act. The Federal Review Board for Media Harmful to

Minors (*Bundesprüfstelle für jugendgefährdende Medien*) includes such media in a list of harmful publications which is binding for public libraries.

4. Information on States to promote tolerance and understanding including public-private initiatives?

Question 4b:

Does the State provide dedicated resources, including online, for the exchange of information and resources on the 'Istanbul Process' and implementation of Human Rights Council Resolution 16/18?

The Federal Agency for Civic Education (bpb) is an executive agency of the Federal Ministry of the Interior, Building and Community. It has the task of promoting the understanding of political issues and processes, strengthening democratic awareness and encouraging political engagement.

The “...begegnen” (Tackling/Meeting...) series by the bpb (<https://www.bpb.de/mediathek/213242/-begegnen>) uses different formats such as posters and online videos to look at aspects of group-focused enmity. The series outlines the effects of discriminatory structures such as those associated with antisemitism and presents counterarguments.

Question 4f:

What non-legislative initiatives does the State pursue to promote interfaith tolerance, understanding and public discussion?

In addition to the funding provided to the Central Council of Jews in Germany in the state treaty (see question 1d) and to the HfJS and the AGK (see question 1g), the Federal Ministry of the Interior, Building and Community fosters Jewish-Christian cooperation and interfaith and intercultural dialogue by means of project-based and institutional funding. In this regard, the Federal Ministry of the Interior provides institutional funding to the central archive for research into the history of Jews in Germany, the International Auschwitz Committee and the German Coordinating Council of Associations for Christian-Jewish Cooperation, among others. It provides project funding to the Leo-Baeck-Institut, the International Council of Christians and Jews, the Union for Progressive Judaism, and the WerteInitiative e.V. association. Funding is also given to projects that aim to retain and develop Jewish cultural heritage and that support a dialogue among the religions (Judaism, Christianity and Islam).

Using a range of formats, the bpb provides a platform for interfaith discussion on topics of sociopolitical relevance, among other things.

The bpb held a public dialogue on 15 September 2018 on the role of religion in the Europe of the future. The event explored visions and expectations of the Europe of the future and the potential contribution of the religious communities in Germany to the future of Europe and the EU, and the part they imagined their community would play in the development of the EU.

From 28 to 30 January 2019, the bpb held a conference in Essen on the topic of religion in society and politics which emphasized, among other things, interfaith dialogue and measures aimed at preventing antisemitic and religious discrimination.

In addition, the Federal Government Commissioner for Culture and the Media has funded for example the German Culture Council's cultural integration initiative (*Initiative kulturelle Integration*) since 2017.

As part of this initiative, representatives of civil society, the social partners, the churches and religious organizations, the media, the Federal Government, the federal states and municipalities drew up 15 statements postulating the normative basis for social cohesion which go beyond the legislative framework. These 15 statements on cohesion in diversity were presented to the public in Berlin and delivered to the Federal Chancellor on 16 May 2017. The cultural integration initiative continues to promote nationwide social discourse and dialogue concerning these statements, for example in the form of focus meetings. More information: <https://www.kulturelle-integration.de>

See also the answer given to question 2 z).

Question 4g:

Does the State have any initiatives in place to counter negative religious stereotyping of Jewish persons?

The bpb department dealing with remembrance culture, antisemitism and monuments focuses its antisemitic activities mainly on secular antisemitism and in particular on historical and civic education on the topic of National Socialism, specifically the Shoa. By imparting knowledge and providing a critical perspective on antisemitism in history and in the present day, the aim is to provide users with the tools they need to recognize antisemitic speech and behaviour and to question these and their own actions. Negative religious stereotypes are a part of this.

See also the answer given to question 2 z).

Question 4h:

Does the State use public office to eliminate barriers between religious communities? Does it include Jews within those initiatives? If there are no Jewish communities in your country, how is Judaism included in these discussions?

The office of Federal Government Commissioner for Jewish Life in Germany and the Fight against Antisemitism was created by a resolution of the German Bundestag on 18 January 2018. The Commissioner is tasked with coordinating measures taken by the Federal Government to fight antisemitism. He will also coordinate a standing joint federal and state commission made up of representatives of the responsible bodies and will provide public information as well as civic and cultural education to increase public awareness of current and past forms of antisemitism. The Commissioner works closely with the Central Council of Jews in Germany. This includes dialogue with other religions.

Question 4i:

Does the state encourage or require public and private media companies to adopt and abide by codes of professional ethics and press codes that sanction anti-Semitic stereotyping?

Freedom of expression and freedom of the press are integral to Germany's conception of its democracy and underpin the principle of no state interference in the press. As a result, Germany relies in principle on the self-regulation of the media in terms of content and within the legal framework.

The German Press Council, a publicly funded organization of the associations of journalists and publishers, created the Press Code of editorial principles in 1973. According to no. 10 of the Press Code, "The press will not defame religious, philosophical or moral convictions." Members of the public may report any violations, which are then reviewed by the complaints committee and violators reprimanded as necessary.

Moreover Germany's Criminal Code (StGB) prohibits verbal and written Holocaust denial (Section 130 (3) and (4) StGB) and incitement to hatred and violence against religious or ethnic groups (Section 130, (1) and (2) StGB).

Question 4k:

Does the State regulate website-hosting companies that host hateful or harassing content? Does the State impose liability for web hosts that host hateful or harassing content?

Germany's Act to Improve Enforcement of the Law in Social Networks has been in force since October 2017. This "Network Enforcement Act" [*Netzwerkdurchsetzungsgesetz – NetzDG*], as it is referred to, obliges the providers of social networks with at least two million registered users in Germany to set up channels for reporting unlawful content, to review complaints of unlawful content, and to delete or block such content. This concerns content that violates certain provisions of the Criminal Code, e.g. defamation, incitement to hatred, child pornography, and prohibited depictions of violence.

The liability incurred by providers of social networks is determined according to the provisions of general law. In particular, affected persons have the right to demand the removal of content violating their rights and to demand desistance from future violations (this is referred to as "disturber liability", see section 1004 of the Civil Code [*Bürgerliches Gesetzbuch – BGB*]). In order for a claim to be valid, the existence of the unlawful content must have come to the attention of the social network provider. This corresponds to the requirement of Article 14 of the European Union's E-Commerce Directive (2000/31/EC).

Question 4l:

What support or training does the State provide to local religious actors to support their role as key actors in preventing incitement to violence? How does that incorporate antisemitism?

The bpb provides methodological guidelines entitled "Gekonnt Handeln' – Kritische Auseinandersetzung mit Antisemitismus" (Taking skilful action – a critical discussion of antisemitism), which were tested throughout Germany in a series of workshops with a range of multipliers: <http://www.bpb.de/veranstaltungen/format/seminar-workshop/243038/gekonnt-handeln>

Question 4m:

Does the State engage with civil society groups with expertise on tolerance and non-discrimination? What does this look like? Does it include Jewish groups?

See the answer given to question 2 z).